THE HONOURABLE SRI JUSTICE V.ESWARAIAH

WRIT PETITION No :25935 of 2006

DATED:05-03-2007

BETWEEN:

The Commissioner,
Dharmavaram Municipality,
Rep., by S.Maqbool Ahmed,
Dharmavaram,
Anantapur District.

.....
PETITIONER

AND

The Assistant Provident Fund Commissioner,
Employees Provident Fund Organization,
Sub-Regional Office, 1/30, R.S.Road,
Kadapa.

.....RESPONDENT

ORDER:

Heard the learned counsel appearing for the petitioner as well as the learned standing counsel appearing for the respondent.

2. Petitioner seeks a writ of mandamus declaring the action of the respondent in issuing proceedings No. AP/ 50181/ SRO/ DCP/ ENF/ ATP/ 2006/1999, dated
21-11-2006, in attaching the bank account of the petitioner-municipality of State Bank of India, Dharmavaram branch for recovery of an amount of Rs.13,91,762/- on the ground of alleged due, as illegal and arbitrary.

3. Petitioner-Dharnmavaram Municipality is the Second Grade Municipality and for the day-to-day sweeping and cleaning of the municipalities, the municipalities are adopting the method of engagement of labour through the contractors by calling tenders. It is stated that the cleaning and washing services are brought under the purview of the Employees Provident Funds and Miscellaneous Provisions Act, 1952 (for brevity, 'the Act') Union of India vide notification No.GSR.296, dated 22-07-2002, under Section 1(3) (b) of the Act . As the petitioner failed to comply with the provisions of the said Act in respect of such employees involved in cleaning and washing services either directly or indirectly, the code No.AP.50168 was allotted to the petitioner vide intimation, dated 27-01-2006, calling

upon them to comply with the provisions of the said Act and as the petitioner failed to comply with the same, the respondent issued summons under

Section 7-A of the Act on 31-05-2006 directing the petitioner to appear before the respondent on 15-06-2006, and on 15-06-2006 the officials of the petitioner appeared before the respondent and on the same day 7-A order has been passed assessing the amount at Rs.13,91,702/- demanding to pay the same within seven days. As the said amount has not been paid within the time stipulated from the date of the said order, dated 15-06-2006, the attachment order, dated 21-11-2006, has been passed attaching the bank account of the petitioner. Aggrieved by the same, this writ petition has been filed.

4. I am of the opinion that admittedly appeal lies against the order passed under Section 7-A of the Act before the Appellate Authority under Section 7-I of the Act. As the cleaning and washing services were brought under the notice and the notice itself has been issued for the first time only in the middle of the year, 2006 and as there is a remedy of appeal before the appellate authority the petitioner is permitted to file an appeal within four weeks from the date of receipt of a copy of this order and if any such appeal is filed within four weeks from today the order, dated 21-11-2006, attaching the bank account of the petitioner-municipality, stands stayed for a period of eight weeks thereafter.

5. Accordingly, the writ petition is disposed of. No order as to costs.

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V.ESWARAIAH,J

05th March, 2007.

Note:

Furnish C.C. of the order

within two days

B/o

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